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REMARKS

Claims 1-7, 9-18, and 20-26 are pending in this application.

The Office Action rejects, under 35 U.S.C. § 102, claims 1-7, 9-18, 20, and 21 over Robert et al. (U.S. Patent No. 6,104,712). The Office Action also rejects, under 35 U.S.C. § 103, claims 22-26 over Robert et al. and "well known prior art." These rejections are respectfully traversed.

Applicants assert that Robert et al. does not disclose or suggest selecting a first portion of a plurality of users to be within a pro active region based upon positional and topographic information and maintaining information on the users selected to be within a pro active region, as recited in independent claim 1 and similarly recited in independent claims 12 and 26.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference" (MPEP §2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

Also, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references, when combined, must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure (MPEP 2142). The prior art must suggest the desirability of the claimed invention (MPEP 2143.01).

Robert et al. discloses a method of wireless communication using a distributed access network. The method provides plural migratory or roving access nodes to populate a region of desired service, optionally determines a node-to-node route between a source and destination, initiates a data transfer between the source and destination by way of the migratory nodes, conveys information from the source to the destination by relaying the information between and among the migratory nodes, and receives the information at the destination node (col. 2, lines 22-31).

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Robert et al. mentions transceiver characteristics may be altered according to environment surroundings, terrain, or other factors (col. 2, lines 36-40). Applicants maintain this does not amount to accessing topographic information and selecting a plurality of users based on the topographical information. In particular, altering transceiver characteristics is not selecting a plurality of users. Furthermore, this is not a disclosure of accessing topographic information. For example, a signal strength indicator may be used to determine the effects of environment surroundings or terrain. Thus, noticing the influences of environment surroundings and terrain does not amount to accessing topographic information. Accordingly, this element is not expressly or inherently disclosed in Robert et al.

In the "Response to Arguments" section the Office Action alleges col. 2, lines 20-40 discloses an ad-hoc network is formed based on environmental surroundings and terrain, which reads on forming an ad-hoc network based on topographic information. Applicants disagree. Applicants assert an ad-hoc network is not formed based on the environment surroundings and terrain. In particular, the cited section only discloses "transceiver characteristics may be altered" according to environment surroundings and terrain. In fact, the Office Action does not even address all of the arguments asserted in the previous Amendment to this effect. Thus, the Office Action appears to conceded that Applicants' remarks support the fact that Roberts et al. does not disclose selecting a first portion of a plurality of users to be within a pro active region based upon positional and topographic information.

Furthermore, Robert et al. does not disclose maintaining information on users selected to be in a pro active region. In particular, in col. 2, lines 20-40, Robert et al. states a node-to-node route between a source and a destination is determined for data transfer between a source and a destination. Thus, the environmental surroundings and terrain are only considered when data transfer is performed, not for the creation of a pro active region. Accordingly, Robert et al. does not disclose maintaining information on users selected to be in a pro active region.

Additionally, the Office Action takes Official Notice "that it is obvious to provide topography information such as terrain, environmental surroundings such as buildings in a map in order to facilitate an easy method of analyzing the information in the process of forming the

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ad-hoc network.” Applicants traverse this allegation. In particular, Applicants point out that the Office Action admits that it is only obvious in the present, not the past, to provide topography information. However, it must have been obvious to one of ordinary skill in the art at the time the invention was made, not at the time of examination of the Application. Furthermore, Applicants assert that it was not even obvious at the time of invention and thus traverse the Official Notice in accordance with MPEP § 2144.03.

Additionally, Applicants maintain that, while Robert et al. mentions “network topography” (col. 4, line 46), this network topography is not topographic information. In particular, topographic information is defined in the present specification at page 11, lines 2-20, as being formations that may interfere with communications. Network topography defines the ad hoc network, not formations that may interfere with communications. Thus, the disclosure of network topography is not the disclosure of topographic information.

Also, Applicants maintain that, while Robert et al. mentions using longitude, latitude, and an elevation parameter (col. 6, lines 45-47), these parameters are not topographic information. In particular, these parameters are position parameters such as the claimed position information. Whereas, topographic information is separate information from position parameters. In particular, topographic information can represent formations that may interfere with communications. Accordingly, position parameters are not topographic information.

Thus, Robert et al. does not disclose or suggest selecting a first portion of a plurality of users to be within a pro active region based upon positional and topographic information and maintaining information on the users selected to be within a pro active region, as recited in independent claim 1 and similarly recited in independent claims 12 and 26.

Therefore, Applicants respectfully submit that independent claims 1, 12, and 26 define patentable subject matter. The remaining claims depend from the independent claims and therefore also define patentable subject matter. Accordingly, Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103.

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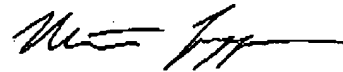
CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-7, 9-18, and 20-26 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

The Commissioner is hereby authorized to deduct any fees arising as a result of this Amendment or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

Respectfully submitted,



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